REMARKS

I. Introduction

Claims 1 to 18 and 69 to 90 are currently pending, and stand rejected. Claims 19 to 68 were previously withdrawn. Claims 1, 4-5, 10, 15, 69, 72-84 and 86-90, as well as the Abstract, are amended. No new matter has been added.

In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

II. Objection to the Specification

The Abstract was objected to for its use of the term "provided." The Abstract is currently amended to delete the sentence having the term "provided." No new matter has been added. Therefore, it is respectfully submitted that the objection has been mooted and withdrawal of the objection is requested.

III. Rejection of Claims 1 to 4, 10, 11, 14, 15, 69, 74, 78, 82 and 88-90 Under 35 U.S.C. § 103(a)

Claims 1 to 4, 10, 11, 14, 15, 69, 74, 78, 82 and 88-90 were rejected under 35 U.S.C. § 103(a) over the combination of U.S. Patent No. 5,471,039 ("Irwin") and U.S. Patent No. 4,825,058 ("Poland"). It is respectfully submitted that the proposed combination of Irwin and Citron does not render unpatentable the present claims for at least the following reasons.

To establish a prima facie case of obviousness, the Office Action must demonstrate three criteria: (1) there must be some suggestion or motivation to one of ordinary skill in the art to modify a reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest each and every limitation in the claim under examination. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991).

Claim 1, as presented, reads as follows:

> 1. A method for validating a ticket associated with a game of chance, comprising:
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> reading a barcode encoded with data and a first program comprising a plurality of instructions, wherein the barcode is included on the ticket;
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> based on the encoded first program, sending the data and a trigger to execute a check validity program to validate the data; and
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> responsive to a determination of the data being valid by the check validity program, validating the ticket.

The Irwin and Poland references do not disclose, or even suggest, at least the above-identified features of claim 1. That is, the Irwin and Poland references, alone or in combination, do not disclose or suggest at least the reading of a barcode encoded with both data and an instruction. Furthermore, the Irwin and Poland references, alone or in combination, also do not disclose or suggest the reading of a barcode encoded with a program comprising a plurality of instructions.

Instead, the Irwin reference does not disclose or suggest even the reading of a barcode encoded with any type of instructions. That is, the Irwin reference only discusses the reading of data encoded on barcodes. The Office Action admits some failings of the Irwin reference on page 3. However, Applicants respectfully note that it is not merely the reading of an encoded combination of data and instructions that the Irwin reference fails to disclose or suggest, as admitted by the Office Action, but in fact the reading of any type of encoded instruction, whether it be included with data or not.

Moreover, the Poland reference fails to cure these critical deficiencies of the Irwin reference with respect to the rejection of claim 1. That is, the Irwin reference also does not disclose or suggest either the reading of a barcode encoded with both data and an instruction, or the reading of a barcode encoded with a program comprising a plurality of instructions. Instead, regarding the reading of barcodes encoded with both data and instructions, the Poland reference only discloses reading barcodes encoded with either data or an instruction. For example, see col. 5, lines 15-20, and col.8, lines 44-47, of the Poland reference read as follows (emphasis added below):

> Each of the bar code tags on the configuration menu has a special sequence that identifies it as a menu tag rather than a data bar code tag. The reader will read tags with the menu prefix only when it is in configuration mode and will read bar code tags without the menu prefix only when it is not in configuration mode. (col. 5)

> This protocol provides an extra safeguard against inadvertent reconfiguration of the reader. Furthermore, while in configuration mode, scans of normal bar code tags are rejected, including normal data tags encoded in the symbology used for the menu tags. (col. 8)

Thus, the Irwin reference does not disclose or suggest the reading of a barcode encoded with both data and an instruction.

Regarding the reading of a barcode encoded with a program comprising a plurality of instructions, the Poland reference only discusses reading a single instruction at a time. That is, the Poland reference never reads a plurality of instructions, i.e., of a program, from a single barcode. Instead, the Poland reference either reads a single instruction in a single barcode read, or else requires reading multiple barcodes to read a single instruction. See, for example, col. 6, line 60, to col. 7, line 63, and col. 8, line 48, to col. 9, line 54, which in part reads as follows (emphasis added below):

> ... there are three different types of commands. The first type is a single scan command that includes a memory manipulation opcode, an address and an argument to complete a configuration selection. The second type of command requires two scans, a memory manipulation opcode with an address, followed by a separate numerical or single character argument to complete a configuration selection. The third type of command requires multiple scans, a memory manipulation opcode with an address, followed by a string of single character arguments from separate tags, and is terminated by scanning an end of characters tag. (cols. 6-7)

Thus, the Poland reference never discloses or suggests reading a barcode encoded with a program comprising a plurality of instructions. Furthermore, the Poland reference even effectively teaches away from such reading of a plurality of instructions from a single barcode. For example, at col. 7, line 64, to col. 8, line 34, the Poland reference extols the virtues of its simple command set which "conserves memory space in the operating system and provides efficient operation of the interpreter" (lines 21-23). Thus, one of ordinary skill in the art would be dissuaded from the idea of encoding a plurality of instructions on a single barcode based on a fair reading of the Poland reference. That is, if the Poland reference is concerned with reducing the complexity of even a single command read by the barcode reader, one of ordinary skill in the art would surely be dissuaded from attempting to read a plurality of commands at once by such a barcode reader. (The Office is respectfully reminded that a prior art reference must be considered in its entirety, i.e., as a whole,

including portions that would lead away from the claimed invention. (*W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).)

For at least the forgoing reasons, it is respectfully submitted that the proposed combination of the Irwin and Poland references does not render obvious claim 1. Moreover, independent claims 10 and 69 contain similar limitations as those discussed above in regards to claim 1, and therefore claims 10 and 69 are also not obvious over the Irwin and Poland references. Furthermore, claims 2 to 4, 11, 14, 15, 74, 78, 82 and 88-90 depend on independent claims 1, 10 and 69, and are therefore also not obvious over the Irwin and Poland references.

Independent from and in addition to the above, at least dependent claim 4 is further patentable because neither the Irwin nor the Poland reference discloses or suggests connecting to a remote terminal based on a program encoded on a barcode. For example, in the embodiment shown in Table 1, the program includes an address of a remote terminal. Nothing in the Irwin or Poland reference provides this type of functionality in which the nature of the connection to the remote terminal is based on the program encoded on the barcode.

IV. Rejection of Claims 5, 6, 12 and 13 Under 35 U.S.C. § 103(a)

Claims 5, 6, 12 and 13 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the Irwin and Poland references, and further in view of U.S. Patent No. 6,251,017 ("Leason"). It is respectfully submitted that the proposed combination of Irwin, Poland, and Leason does not render unpatentable the present claims for at least the following reasons.

Claims 5, 6, 12 and 13 depend from independent claims 1 or 10, which are patentable over the Irwin and Poland references at least for the reasons explained above. Furthermore, the Leason reference does not cure the deficiencies of the Irwin and Poland references in regards to independent claims 1 and 10. Therefore, claims 5, 6, 12 and 13 are also patentable over the Irwin, Poland and Leason references.

Independent from and in addition to the above, at least dependent claim 5 is further patentable at least because the Leason reference does not disclose or suggest connecting to a web site based on the encoded program. That is, in the portion of the Leason reference relied upon by the Office Action, there is no disclosure of the identity of the website itself being supplied by the validation code. The Leason reference merely appears to discuss a conventional type of connecting to a web site. By contrast, in the embodiment of Table 1 of the present Application, an identity of a website, lotteryheadquarters.com, is provided based on the encoded program.

V. Rejection of Claim 7 Under 35 U.S.C. § 103(a)

Claim 7 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the Irwin and Poland references, and further in view of U.S. Patent No. 6,340,331 ("Saunders"). It is respectfully submitted that the proposed combination of Irwin, Poland, and Saunders does not render unpatentable the present claim for at least the following reasons.

Claim 7 depends from independent claim 1, which is patentable over the Irwin and Poland references at least for the reasons explained above. Furthermore, the Saunders reference does not cure the deficiencies of the Irwin and Poland references in regards to independent claim 1. Therefore, claim 7 is also patentable over the Irwin, Poland and Saunders references.

VI. Rejection of Claims 8, 9, 16, 17, 18, 70 and 71 Under 35 U.S.C. § 103(a)

Claims 8, 9, 16, 17, 18, 70 and 71 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the Irwin and Poland references, and further in view of U.S. Patent No. 5,337,358 ("Axelrod "). It is respectfully submitted that the proposed combination of Irwin, Citron, and Axelrod does not render unpatentable the present claims for at least the following reasons.

Claims 8, 9, 16, 17, 18, 70 and 71 depend from independent claims 1, 10 or 69, which are patentable over the Irwin and Poland references at least for the reasons explained above. Furthermore, the Axelrod reference does not cure the deficiencies of the Irwin and Poland references in regards to independent claims 1, 10 and 69. Therefore, claims 8, 9, 16, 17, 18, 70 and 71 are also patentable over the Irwin, Poland and Axelrod references.

VII. Rejection of Claims 72, 73, 75 to 77, 79 to 81 and 83 Under 35 U.S.C. § 103(a)

Claims 72, 73, 75 to 77, 79 to 81 and 83 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the Irwin and Poland references, and further in view of U.S. Patent No. 6,915,271 ("Meyer"). It is respectfully submitted that the proposed combination of Irwin, Poland, and Meyer references does not render unpatentable the present claims for at least the following reasons.

Claims 72, 73, 75 to 77, 79 to 81 and 83 depend from independent claims 1, 10 or 69, which are patentable over the Irwin and Poland references at least for the reasons explained above. Furthermore, the Meyer reference does not cure the deficiencies of the Irwin and Poland references in regards to independent claims 1, 10 and 69. Therefore, claims 72, 73, 75 to 77, 79 to 81 and 83 are also patentable over the Irwin, Poland and Meyer references.

Independent from and in addition to the above, at least dependent claims 72-73, 76-77 and 80-81 are further patentable at least because the Poland reference teaches away from being combined with the Meyer reference in any way that might be pertinent to rejecting these claims. That is, the Poland reference is quite specific about the desirability of a simple system that does not overly consume memory resources of the operating system of the bar code scanner. For example, see col. 7, line 64, to col. 8, line 34, of the Poland reference reads as follows (emphasis added below):

> It is important to note that in processing the menu tags, the interpreter program sets the configuration of the bar code reader by accessing memory addresses and loading arguments into those memory locations directly. It does not need to match individual tags with a predetermined set of commands or to call other subroutines to implement the commands.
>
> The interpreter routine occupies a small fraction of the memory space that would be required to store all of the preprogrammed functions needed for a conventional menu configuration system to perform the same functions. The number of operations configurable by such a conventional menu system is limited by how much memory space is available to support each pre-programmed function. In contrast, in a system of the invention, the number of options is limited only by how many menu tags are printed. In effect, the encoded tags emulate a simple assembly level language invoking the simple defined instruction set and syntax of the interpreter. The primary capability is to modify the variables at the selected address locations in the operating system software to effect a change in configuration or in

> operation. The memory manipulation instruction set holds a very limited number of instructions to implement the loading of memory locations. The simplicity of this instruction set conserves memory space in the operating system and provides efficient operation of the interpreter. In the preferred embodiment, only eight instructions are necessary. Two instructions clear and set bits at given bit addresses. These instructions are used to clear and set flags. Two other instructions are used to load bytes into a given address in either of two memory spaces available to the processor. One instruction indicates that the scanned data is an argument, another indicates the end of a character string. There is an instruction to perform a jump to a given address in the operating system software for the bar code reader. Finally, there is a special instruction to enter the configuration mode and to clear errors.

Thus, one of ordinary skill in the art would be dissuaded from combining any teaching regarding virtual machines, e.g, like those from the Saunders reference, with the Poland reference, because the Poland reference clearly discusses the importance of reducing the strain on the memory resources of the operating system of the barcode scanner. One of ordinary skill in the art would thus be dissuaded from combining the Saunders and Poland references because the addition of a virtual machine would further strain the memory resources of the operation system of the barcode reader of the Poland reference, which the Poland reference teaches against doing.

VIII. Rejection of Claims 84 to 87 Under 35 U.S.C. § 103(a)

Claims 84 to 87 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the Irwin and Poland references, and further in view of U.S. Patent No. 6,619,543 ("Smith"). It is respectfully submitted that the proposed combination of Irwin, Poland, and Smith references does not render unpatentable the present claims for at least the following reasons.

Claims 84-87 depend from independent claim 1, which is patentable over the Irwin and Poland references at least for the reasons explained above. Furthermore, the Smith reference does not cure the deficiencies of the Irwin and Poland references in regards to independent claim 1. Therefore, claims 84-87 are also patentable over the Irwin, Poland and Smith references.

CONCLUSION

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited. The Commissioner is authorized to charge any fee arising in connection with the filing of this paper, including any necessary extension of time, to the deposit account of **Kenyon & Kenyon LLP**, Deposit Account No. **11-0600**. The Examiner is cordially invited to telephone the undersigned if any issue or question arises with respect to the present application.

Respectfully submitted,
KENYON & KENYON LLP

Date: Nov. 19, 2007

By: _____

Andrew L. Reibman
Reg. No. 47,893

KENYON & KENYON LLP
One Broadway
New York, N.Y. 10004
(212) 425-7200 (telephone)
(212) 425-5288 (facsimile)
CUSTOMER NO. 26646